

ENVIRONMENTAL PROTECTION COMMISSION
REGULAR MEETING/PUBLIC HEARING
MINUTES

November 1, 2006

Wednesday, November 1, 2006 7:30 p.m. Room 206
Town Hall

Acting Chairman Hutchison called the meeting to order at 7:30 P.M. Commission Members Present: Reese Hutchison, Susan Cameron, Craig Flaherty, Ellen Kirby, and Ned Lewis

Staff Present: Richard Jacobson

Court Reporter: Bonnie Syat

Mr. Hutchison read the first agenda item:

EPC-42-2006 Christopher and Margaret Stefanoni, 77 Nearwater Lane, proposing to construct an age restricted housing development and requesting a reconsideration of the extreme high water elevation and designation of the regulated inland wetlands.

The Commission postponed discussion of this item until November 15, 2006.

Mr. Hutchison read the next agenda item

EPC-60-2006, Robert F. Maslan, Jr., Esquire, 1014-1020 Boston Post Road, proposing construction of a commercial/residential building and related development activities within an upland review area.

Mr. Flaherty said he was unsure if they were approving the activity on the southern parcel. He said it may be a technicality but the intent of the regulations may not have been met. Ms. Cameron suggested a stipulation that a management plan be required and adding a recommendation to Planning and Zoning in the resolution to consider water quality and reference the EPC conditions. The Commission directed staff to write a resolution of approval including a condition to provide "other reasonable measures which can be incorporated" to improve water quality on the southerly parcel. Mr. Flaherty made a motion to approve the application with stipulations. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hutchison read the next agenda item:

EPC-69-2006 Stephanie and Peter Ahl, 20 Arrowhead Way, proposing to construct a second floor addition within the upland review area.

No one appeared on behalf of the applicant. The Commission continued the application to November 15 to discuss the septic system with the applicant.

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Mr. Hutchison read the next agenda item:

EPC-70-2006 Walter M. Miller, 8 Shady Acres Road, proposing new house construction and an amendment to the wetland map to reflect all activities are outside the upland review area.

Mr. Miller represented himself. He said the Town map shows more wetlands than are actually on the site. He said the proposed construction will be outside of the upland review area.

Mr. Flaherty said he sees the benefits of moving the septic away from the wetland and providing new drainage recharge. He said it appears that there may need to be some filling or temporary activity within 50 feet. He suggested stipulating a minimum of 30 feet separating distance to the wetland and the contractor or engineer can then review the need for fill and adequate room for construction. He said that since there is some tree removal indicated, the applicant should provide new shrubs along the buffer. He requested a stipulation requiring tree protection for the Oak Tree to be saved. Mr. Flaherty made a motion to approve the application with stipulations. Ms Kirby seconded the motion and it passed 4-0 with Mr. Flaherty abstaining.

Mr. Hutchison read the next agenda item:

EPC-71-2006 Jin Hong and Fouad Onbargi, 40 Tulip Tree Lane, proposing a pool fence and temporary site disturbance within the upland review area.

Gil Wheless, Landscape Architect represented the applicant. He described the replacement of a stockade fence split rail fence with a universal fence. He said it will be 6 feet high and set in concrete. He said that the new soil survey shows the other activity outside of the 50 foot upland review area. Mr. Hutchison made a motion to approve the application. Mr. Lewis seconded the motion and it passed unanimously.

Mr. Hutchison read the next agenda item:

EPC-72-2006 Bart Ice, 10 Pondfield Lane

No one appeared on behalf of the applicant. The Commission continued the application to November 15.

Mr. Hutchison read the next agenda item:

EPC-73-2006 Susan O'Neil, 2 Brown Street, proposing construction of a landing and stairs within the upland review area.

Ms. O'Neil represented herself. Ms. Cameron asked if the stairs were already built. Ms. O'Neil said yes. The stairs are just a landing and steps to allow a second exit from the

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house. Ms. Cameron made a motion to approve the application. Mr. Hutchison seconded the motion and it passed unanimously.

Mr. Hutchison read the next agenda item:

EPC-74-2006 Sean Meyer, 33 Plymouth Road, proposing to replace an existing deck within the upland review area.

Mr. Meyer represented the property owner. He described the deteriorating condition of the exiting deck. Mr. Flaherty asked him to describe the process of construction. Mr. Meyer said they will remove the material by hand and load it into a dumpster. The new footings will be dug by hand. The deck will be built with pressure treated wood and cedar decking. Mr. Flaherty made a motion to approve the application. Ms. Cameron seconded the motion and it passed unanimously.

Mr. Hutchison read the next agenda item:

EPC-75-2006 Anthony and Lisa Britton 50 Inwood Road, proposing to replace pool terraces within the upland review area.

Robert Sherwood, Landscape Architect represented the applicant. He said they are proposing the restoration of an existing terrace and new terrace around the pool. He said they will remove 1500-1600 square feet of lawn versus 800 square feet of new terrace. He also requested an additional 25 square feet of terrace within the upland review area shown on the plan near the house. Ms. Cameron made a motion to approve the application with the stipulation that the additional 25 square feet of terrace come back as for approval as plan amendment along with the planting plan.

Mr. Hutchison read the next agenda item:

EPC-76-2006 Mark Raskopf 60 Andrews Drive, proposing to construct a retaining wall and place fill within the upland review area.

The Commission continued this application to a November 15, 2006.

Mr. Hutchison read the next agenda item:

EPC-77-2006 Frank Yorchika and Samuel Starks 6 Robin Hood Lane, proposing to construct a new house and provide wetland enhancements within a wetland and within the upland review area.

Attorney Wilder Gleason represented the applicant. The Commission determined that a public hearing would be required because there may be a significant impact. The hearing was scheduled for December 1, 2006.

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Mr. Hutchison read the next agenda item:

EPC-73- Ian and Lisa Webb, 33 Knollwood Lane requesting bond release

Mr. Hutchison made a motion to approve the bond release based on the staff recommendation. Mr. Lewis seconded the motion and it passed unanimously.

Mr. Hutchison read the first public hearing item at 8:40:

Proposed amendments to the “Inland Wetlands and Watercourses Regulations” of Town of Darien. The amendment to section 2.1.y will add Tokeneke Brook and Stony Brook to the “named watercourses” under the definition of regulated activities which will increase the upland review areas associated with these watercourses. The second amendment corrects a typographic error in the “as-of-right” definition.

Mr. Hutchison opened the hearing for public comment.

Doug Milne, Realtor, questioned the need to extend the setback from 50 feet to 100 feet. He said it will have an impact on property values. He questioned whether would be approved and if not it would affect land values.

Tom Finnegan said the changes would impact his property. His house would now be in the upland review area.

Ms. Cameron said the regulations have not been updated since 1993 and studies have show that the increase in impervious surface has negative impacts on the wetlands. Mr. Hutchison said the Commission is sensitive to the impact of regulation on marketing. He said he is confident the Commission will work with applicants to allow development without significant impacts. Ms. Kirby said each application is unique and applicants have the opportunity to present their need for the property use. Ms. Cameron said that 98.5% of the Town is developed. These changes are just one opportunity to improve water quality.

Martin Ross said that portions of Stony Brook are very narrow. He questioned whether the regulation changes are justified by problems in other areas of the brook which are wider. Mr. Flaherty said the Commission takes a watershed wide look at the watercourse. Mr. Ross asked if there have been studies of past impacts and whether the additional runoff from the High School caused more flooding. Mr. Flaherty said there is a disparity between the regulation of wetland properties and non-wetland properties. Other Towns require that any building permit requires stormwater storage.

The Commission continued the public hearing until November 15, 2006.

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Mr. Hutchison read the next public hearing item:

EPC-59-2006, Christian & Kathleen Browning, 17 Greenwood Avenue, proposing replacement of an existing residence and related construction within an upland review area.

Mark Lebow of Seymour Associates represented the applicant. He said this application was continued from October 4. They have moved the stormwater infiltration uphill and will provide a fence or barrier uphill of the proposed plantings. He said they are proposing a raingarden for the driveway. Mr. Flaherty asked if they could add a unit of recharge gallery to spread out the flow. Mr. Lebow said they are already providing storage in excess of what is required but the engineer could spread it out further.

Mr. Flaherty made a motion to close the public hearing. Ms. Cameron seconded the motion and it passed unanimously. Mr. Flaherty said everything the Commission asked for was added to the plans. The Commission asked staff to draft an approval with a stipulation that the infiltration with storage be 40 feet in length.

Mr. Hutchison read the next hearing item:

EPC-61-2006, Joseph and Maria Teresa Criscuolo, 95 Hoyt Street, proposing driveway construction within a regulated area.

Attorney Arthur Engle represented the applicant. He described the property and said that Hoyt Street is a busy street. He gave the Commission an accident report for Hoyt Street. He said the existing driveway is at 15% and they have safety concerns. He said they considered five alternatives including the no-build alternative which Don Ferlow will discuss.

Mrs. Criscuolo said the property was previously a dumping ground. She said they have safety concerns regarding the driveway and the son's future driving.

Don Ferlow of Stearns and Wheeler said he had questions whether the driveway could be approved when he first looked at it. He said the existing driveway has a 15% straight grade with no landing. He described the wetland system as sloped and altered in the past. He said the vegetation species are more upland than wetland and some are invasive. Some of the species grow in both wetlands and uplands but the soils are hydric therefore it is a wetland. He said the wetland has marginal viability. Its primary function is to convey runoff. It has some wildlife habitat and cover value.

He said they provided an alternatives analysis and described alternates A, A1, B and C and explained they may be feasible but are not prudent. The requested proposal involves one large tree to be removed and a few smaller trees. He described the driveway construction detail and the wetland crossing. He said there will be 1100 square feet of

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impact and they propose lawn removal and enhancement plantings. He said there will be no increase in runoff and the plantings will provide habitat.

Ms. Kirby asked about the dug hole in the wetland with the pipe exiting a small ponded area. Mr. Engle said the pipe is currently broken and has been capped. Mr. Criscuolo said the previous owner had a gravity fed well and the ponded area dries up in the summer.

Attorney Terry Coates provided a statement in opposition to the applicant. He said the application is not right for the environment or the neighbors. He said the wetland is not isolated and is part of a two acre wetland system on properties behind Miller Road. He said the wetland acts to prevent flooding. The Commission must consider significant impacts and must consider feasible and prudent alternatives. He said there are two major trees to be removed. He said Matt Popp was retained to evaluate the proposal and he provided a report. Mr. Coates said there has been no meaningful attempt to find alternatives. The garage was built just last year and the one foot difference in grade which Mr. Ferlow described could have been prevented. He described the existing site lines from the Criscuolo driveway. Mr. Hutchison questioned the purpose of the easement. Mr. Coates said he assumed it was for a rear lot. Mr. Criscuolo said the easement was for the purpose of accessing the property.

Jennifer Hagen said she is concerned with the safety of the driveway entering Miller Road.

Dennis Maroney said he is concerned that snow will be pushed into Miller Road.

Mr. Flaherty suggested the Commission may need to hire an independent consultant. Mr. Jacobson was requested to contact consultants. Mr. Engle said the applicant would grant an extension to continue the hearing.

Mr. Hutchison read the next hearing item:

EPC-67-2006, Whole Foods Market, 150-152 Ledge Road, proposing regrading, parking lot construction, drainage, and landscaping associated with the construction of a commercial development within the upland review area

Attorney Wilder Gleason represented the applicant. The Commission continued the hearing until November 15, 2006.

Mr. Lewis made a motion to adjourn. Ms. Cameron seconded the motion. The meeting adjourned at 10:40 p.m.

Respectfully submitted,

Richard B. Jacobson
Environmental Protection Officer